

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE: TERRORIST ATTACKS ON
SEPTEMBER 11, 2001**

**Civil Action No.
03 MDL 1570 (GBD) (FM)**

*This document applies to
Hoglan, et al. v. The Islamic Republic
of Iran, et al.
1:11-cv-07550-GBD*

DECLARATION OF LEE N. HOGLAN

I, Lee N. Hoglan, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge, information and belief.

1. I am a resident of the State of California, a citizen of the United States of America and over the age of eighteen.
2. The information contained in this Declaration is true and is based upon my personal knowledge.
3. I am preparing this Declaration as the uncle of Mark Kendall Bingham, in an effort to express the impact the death of my nephew has had on my life following the terrorist attacks of September 11, 2001.
4. During the summer of 1970, my sister Alice brought her infant son home to live with us at the family homestead in the suburbs of Miami, Florida. My nephew Mark Bingham lived in our Hoglan family home with his grandparents (my parents) Betty and Herbert Hoglan, from age three months to about age 6, a span of six years. Then later, I provided a home for him, his

mom and other family members in my home in 1978-1979, and again briefly at various other times in Mark's lifetime. I gave Alice money to sustain her and Mark during lean times.

5. My younger brother Vaughn, Mark who we called Kerry, and I shared a bedroom in our family home for years, in the early '70s. Vaughn and I used to think up ways to entertain the little guy (and ourselves). When Kerry was a 25-pound baby and pudgy as a little Buddha, Vaughn and I waxed photographic with our cute little live model. Over the course of a week or so, we thought up ways to set him up in nutty outfits and some pretty crazy settings. He loved all that attention from his uncles. He was a smiling fat little card shark with a fistful of playing cards held in pink, dimpled hands just long enough for us to snap the photo. Then he became a billiards hustler, this time with a cue stick in those little pink hands. Then he was a piano virtuoso, seated upright and convincingly at the bench of the family piano for a few seconds with those same chubby hands on the piano keys.

6. We all were very relieved witnesses to an incident when Kerry, age 4, learned a sobering lesson in the hazards of electricity. One afternoon in the living room of our Miami home, while no one was looking, he jammed a table knife into a wall outlet. Zzzzt! Our little creative genius came through it unscathed, but learned never to use a metal object to pry out a plugged-in LiteBrite screen again.

7. We had raging pillow fights in the dark, from bed to bunk bed at our Miami home when he was age two to age six. Vaughn and I acted more like his older brothers than his uncles. Our haphazardly placed shots found their mark in the gloom across the room. Thud! "Ooof!" then - "Missed me!" Kerry would yell unconvincingly as he grabbed pillows to return fire.

8. When Mark was almost six, Alice set up housekeeping with her little son, on a houseboat. We all got together almost every weekend for family celebrations on their houseboat on the Miami River, within shouting distance of the Orange Bowl, where our favorite professional football team played: the Miami Dolphins.

9. When Mark was about age seven, our entire family moved from Miami to southern--- then later to northern---California. Of course we brought Kerry and Alice along with us. Kerry and our entire family lived in my Riverside, California home, then in his grandparents' new home in Riverside, California. I was doing well in my optometric practice, and was able to more fully support Kerry (Mark).

10. Alice struggled at times to make ends meet while Mark was growing up. Just as my parents had done, I donated cash to their little mother-son team. I remember sending her a few hundred dollars at a time to keep them going while Mark and she lived in Monterey, California, and at other times as well. They seemed to do just fine---emotionally if not financially---despite their lack of income. But they were grateful for my cash contributions to keep them afloat.

11. Kerry, by then known as Mark, remained very important, and very emotionally close to me and all of us in the family as he grew up. I was very pleased when Alice brought Mark north from Monterey to Los Gatos in the outskirts of San Jose, California in April 1983. At that point in time I was in optometric practice in nearby Saratoga. Living nearby one another again, we continued our joint family good times all through the eighties, the nineties, and we expected to remain close into the new millennium. The entire family, now increased to include wives and children, got together at every possible occasion, with any excuse to celebrate. We shared Thanksgivings, Christmases, birthdays, summer trips, and of course, Miami Dolphin football games. Mark's later adult friends here in California could not quite "get" Mark's enthusiasm for

the Dolphins. No doubt they would have understood if they could have seen Mark grow up in the sphere of his Grandpa Herb and his Uncle Vaughn and Uncle Lee.

12. Mark played rugby while a student at Los Gatos High School, and went on to play that tough sport at “Cal,” his beloved University of California, Berkeley. He headed off to college in 1988, but made sure he kept the family bonds as tight as ever. My sisters and brothers and I proudly looked on as he progressed from a skinny kid to a massive competitor on the rugby field. At Berkeley, he moved into the rowdy Chi Psi fraternity house. Every time he invited his mom and aunt and uncles up to the “Lodge” we all came away feeling as though Mark and his crazy college buddies were living the movie “Animal House” complete with John Belushi antics, food fights and toga parties. Even “Animal House” could not compare with the insane “luaus” hosted by Mark and his Chi Psi brothers. His college years were crazy fun for all of our family.

13. Mark’s trademark was his big, grinning hug he gave any and all of us upon arrival to all our family events.

14. We all got a big kick out of it to observe just how loyal and vocal Mark was for his alma mater, the University of California at Berkeley. He would scribble “Go Bears!” at the bottom of all of his letters and notes to us. Whenever he spotted a “Cal” athletic cap or gear worn by anyone, even complete strangers, he would blurt out “Go Bears!” Those strangers often caught his infectious goodwill, and responded “Go Bears!”

15. Mark was such an enthusiastic supporter of Cal Football that, in a passionate moment during the Big Game of 1992 against Cal’s biggest rival, Stanford, Mark and his buddies rushed the field at halftime. Mark went a step beyond that; he tackled Stanford’s mascot, the Stanford Tree. Whatever member of the Stanford Band was playing the role of Tree that afternoon, he took a direct (but playful) tackle by Mark. That drew the attention of the campus police, who

gave chase and nabbed Mark. So it was that Mark's Uncle Vaughn received an urgent call from Mark that evening: "Uncle Vaughn, I know you have a good attorney. I'm in jail. I tackled the Stanford Tree!" Vaughn and I had given money to Mark on many occasions in the past, but we never before got such a chuckle as we did over his urgent request for this gift of money. (Mark's mother tells us she did not hear of this incident until years had gone by!)

16. Mark played hard and well on the Cal Rugby team. Frequently we heard him say the phrase "With You." He explained that he and his teammates would chant "With You" as they ran together on the rugby pitch toward the goal line, to let the teammate carrying the ball know that another teammate was nearby and ready to receive a lateral pass if needed to advance the ball. So "With You" became Mark's catch-phrase.

17. Mark was one of our liveliest guests when Vaughn, Kathy, friends and I took a family motor-home trip to the Grand Canyon in Arizona. We got lots of good family-movie footage as crazy Mark stood at the rim of the canyon with his red-and-white checkered boxer shorts on his head, covering his hair. With a sweeping gesture in bold Yassar Arafat fashion, he declared: "This is nothing compared to Gaza! I claim this land in the name of my people. We will take many wives and raise up many children here..."

18. Even though all of us resided about sixty miles south, Mark never failed to make it down to attend our Christmas, Easter, birthday, Thanksgiving, Saint Patrick's Day and many other family parties. On the occasion of his thirtieth birthday, I went with the entire family to fete Mark and his partner at a big restaurant Bucca de Beppo near Mark's then-home of San Francisco.

19. As an adult, Mark continued to seek me out to share his life and good times. We got together very often, especially at events involving the entire extended family, and he and I also talked on the phone to each other once or twice a week.

20. Once, Mark saved my life. Our big family group was on a rafting excursion on a river in northern California, when suddenly things went dangerously wrong. Clearly, we were in for more adventure than we had bargained for. Our flimsy raft overturned and deflated in the strong whitewater current. Our family group dissolved in the watery melee. I struggled to help a young cousin, but I found myself overcome by the icy cold water and swift current. “Are you OK?” Mark called to me from a neighboring raft. “No!” I croaked back. Mark jumped into the current and using all his sturdy 6’4” frame and muscle, pulled me out of the current and into his own raft. I could not have made it on my own. I have loved Kerry since he was a baby, and from that day forward, I owed Mark my life.

21. It will be one of the biggest regrets of my life that I could not accept Mark’s invitation to travel with him and his buddies to run with the bulls at Pamplona, Spain, in the summer of 2001. That would have been one of the stellar events of my life, trying to keep up with those crazy twenty-somethings as I, then a fifty-something, tried to steer clear of 15-inch long horns while nursing a hangover. But I was so grateful to Mark for loving me and wanting me to be a part of his raucous life.

22. When Mark told me in 2000 that he planned to move to New York City to live, a strange feeling of dread began to gnaw at me. It was not simply that the whole family would sorely miss Mark. It was a vague worry, a dull, inarticulate, inexpressible dread. I remembered that feeling I had, on the morning of September 11, 2001.

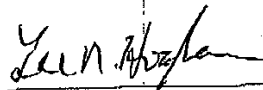
23. On the morning of September 11, 2001, my cell phone rang early. It was my brother Vaughn, advising me that he and his wife Kathy and Alice, our sister---Mark's mom--- had heard from Mark by phone, from a hijacked airplane in flight, at 6:44 a.m. (9:44 a.m. Eastern Time). "I just want to tell you I love you, in case I don't see you again. There are...guys who have taken over the plane..." I was crying by the time I finished hearing all this bad news from Vaughn. I phoned our sister Candy, and told her that Mark's plane had crashed into a Pennsylvania field. It turned out that I had awakened her from a nightmare. She cried with me on the phone. Then both she and I hurried from our homes to make it over to Vaughn's house, where family members and lots of news trucks and reporters were gathering. All of us answered questions: "Yes, Mark was aboard hijacked United Airlines 93." "Yes, Alice, Vaughn and Kathy heard from Mark directly from his airplane before it crashed." "Yes, Mark mentioned that the hijackers threatened to bomb the airplane." "No, we didn't have time to talk very long before we were disconnected." "Yes, we tried to call him back, and Alice left messages on his cell phone." When we found a quiet moment together, Candy told us all about a nightmare she had been experiencing as my phone call awakened her a few minutes after 7:00 a.m. (10:00 am Eastern Time). She had been dreaming that she herself was a passenger on an airplane that was crashing. She could hear and see her fellow passenger and feel their feelings as she, and all, were gripped by terror and desperation. She could see the morning light streaming through the rounded windows of the coach section of the aircraft as it dived closer and closer to the ground. Then, Candy told us, her bedside phone began ringing, and the next thing she knew, she was hearing me tell her that Mark had been killed in a fight with Islamist terrorist hijackers aboard an airplane. To this day I still recall her fear as she described her dream and I cannot help but wonder what Mark went through that morning.

24. We all miss Mark so much, it is hard to describe. We loved him and helped him grow up, and interacted with him all his childhood and adult life. Without Mark, we have struggled to go on, of course, but our lives just are not the same. Our sister Alice fights depression. She quit her job as a United Airlines flight attendant. Her health is pretty bad. Candy continues to work for United, but is much more aware of security problems there. She has occasional panic attacks, and flies as little as possible.

25. Mark was a great kid. He was sort of our little brother, and we were so proud of him. Now, looking back, we are very proud of the noble way he and a handful of three to five fellow passengers took a vote, formed a pickup team and ran forward to try to retake a hijacked cockpit. They could not save lives aboard UA Flight 93, but, by thwarting Khalid Sheik Mohammed's plot to force the Boeing 757 to crash into the U.S. Capitol, that little group of brave passengers faced up to four armed thugs, and saved lots of lives on the ground in Washington, D.C.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing declaration is true and correct to the best of my knowledge, information and belief.

EXECUTED this 5th day of May, 2017.

A handwritten signature in black ink, appearing to read "Lee N. Hoqlan", written over a horizontal line.

LEE N. HOQLAN, Declarant